IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 6531 of 2007(C)

PETITIONER:

K.M.JOAN, HEADMISTRESS, O.L.F.G.H.S.,
MATHILAKOM, MATHILAKOM P.O., (VIA) IRINJALAKUDA,
TRICHUR DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

2. DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

3. DISTRICT EDUCATIONAL OFFICER,
IRINJALAKKUDA, THRISSUR DISTRICT.

4. MANAGER,
TERESIAN CARMALETE SISTERS,
ERNAKULAM.

5. ACCOUNTANT GENERAL OF KERALA (A&A),
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.6531 OF 2007

Dated this the 31st day of July, 2007

JUDGMENT

Petitioner retired from service while she was working as Headmistress in O.L.F.G.H.S. in Mathilakom in Trichur district. She prays for issuance of a writ of certiorari to quash Exts.P1, P3 and P7 orders issued by the departmental officers. In view of the order that I propose to pass, I do not deem it necessary to go into the various contentions raised by the petitioner in detail. However, the primary grievance of the petitioner appears to be that the period of service rendered by her in a leave vacancy with effect from June 2, 1982 to January 20, 1983 is now being refused to be reckoned as qualifying service for the purpose of granting increment and consequential pay revisions.

2. It is the admitted position that petitioner had worked as High School Assistant in a leave vacancy with effect from June 2, 1982 to January 20, 1983. On January 21, 1983 she was reverted as Upper Primary School Assistant again. Thereafter, she got a regular appointment as High School Assistant with effect from

June 15, 1983. The contention of the petitioner is that the above period of her service in the leave vacancy as well as the commencement of the regular service was initially reckoned for the purpose of increment and pay revision. However, the department took the view that the initial orders issued in this regard were not regular or in order. Thus, the department had passed the impugned orders. It is contended by the learned counsels that the stand taken by the department is totally erroneous particularly in view of the Government decision No.279/79/Fin. dated March 16, 1979 under Rule 33 Part I K.S.R. It is pointed out by learned counsel that the above Government decision was deleted by_G.O.(P)540/94/Fin. dated September 30, 1994 with effect from October 1, 1994. Therefore, the contention of the petitioner is that in view of the above Government decision, the initial stand taken by the department was entirely justified. The present decision taken by the Government is contrary to the Government decision referred to above, it is contended by the learned counsel.

3. I do not propose to deal with any of the contentions

raised by the petitioner at this stage, in view of the limited prayer made by the learned counsel for the petitioner at the Bar. In my view the Government has to reconsider the matter in the light of the objection raised by the petitioner.

4. Therefore, the writ petition is disposed of with a direction to respondent no.1 to take a decision in the matter afresh in the light of the contentions referred to above. It will be open to the petitioner to submit a representation before respondent no.1 in this regard highlighting all the relevant aspects of the issue. This shall be done by the petitioner within one month from the date of receipt of a copy of this judgment. On receipt of the representation, respondent no.1 shall take a decision in the matter after affording sufficient opportunity to the petitioner to be heard. Petitioner shall produce a certified copy of the judgment, a copy of the writ petition and the counter affidavit before respondent no.1 for compliance.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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